

Notice No.: 97-002

Date: July 21, 1997

Applies to: All Employers

Subject: New Reporting Procedures When Hiring Retirees

New Rules Regarding Employment After Retirement

Substitute Senate Bill 5218 (Chapter 254, Laws of 1997) creates new rules regarding when retirees can return to work and how much they can work without their monthly pension being affected. These new rules go into effect July 27, 1997, and apply to Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) retirees. The bill includes a new section regarding employer responsibilities and liabilities concerning the reporting of reemployed retirees to the Department of Retirement Systems (DRS).

Summary of Changes

What Administrative Rules Still Apply?

1. Employers are required to ask all new employees if they are retirees and record the answer in writing.
2. Employers must inform DRS when they have hired a retiree.
3. Employers must report a retiree as an active member when instructed to by DRS.
4. A member must terminate all employment to be eligible to apply for retirement.
5. The current data collection process regarding the 525-hour post retirement restriction for TRS Plan 1 retirees will continue to be used.
6. DRS will continue to advise retirees to inform employers they work for, that they are a retiree of a Washington State Retirement System.

What Administrative Rules No Longer Apply?

1. Prior to July 27, a retiree had to be hired on a temporary basis in order to work five months in an eligible position and continue to receive their monthly benefit.
2. Prior to July 27, the employers' responsibility was to determine when the retiree was eligible to return to membership.
3. Prior to July 27, the retirees' status was impacted if the retiree returned to work prior to receiving their first monthly benefit check.
4. Prior to July 27, retirees were mandated into active membership.

What Is New for Employers?

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1. Employers will be liable for pension overpayments if they do not use the form, Retiree Returning to Work Report, to inform DRS they have hired a retiree.
 2. Employers who report a termination date in error will be liable for pension overpayments.
 - Employers who hire independent contractors should ensure the individual meets the definition of an independent contractor.
 3. The hiring status (temporary or permanent) no longer affects how much a retiree can work while continuing to receive a monthly benefit.

What Is New for Retirees?

1. Retirees who return to work prior to one full calendar month from their accrual date, will have their monthly retirement benefit reduced per a specific formula (see page 3).
2. Retirees now have the choice of rejoining membership.

Employer Responsibilities and a New Form

Section 16, Chapter 254, Laws of 1997 requires employers to ask all new employees if they are a retiree of any Washington State Retirement System. This requirement was formerly in RCW 41.50.130. When employers hire a retiree they must use the form, Retiree Returning to Work Report, to inform DRS of this occurrence.

Employers must report every retiree they hire with the appropriate date and position status (eligible or ineligible) as defined in each applicable Washington State Retirement System.

- Refer to the instructions on the back of the form, Retiree Returning to Work Report, for more information.

Enclosed with this notice are five copies of the new form for reporting retirees to DRS. Directions for completing the form are printed on the back of the form. Due to the rules regarding retirees' pensions being reduced if they become reemployed prior to the required full calendar month break in service, send this report to DRS as soon as the hire date is known.

Note: Employers must report any retiree that is currently working for them, not just the retirees hired as of July 27, 1997.

Employer Liabilities

Employers will be liable for pension overpayments if they do not use the form, Retiree Returning to Work Report, to inform DRS they have hired a retiree.

- Employers must accurately report all of the necessary information. If they do not, employers will be liable for any pension overpayments that occur.

Reporting accurate information regarding the termination date of an active member is critical because a member's employment status directly affects when a member can apply for retirement. Employers should use caution regarding the use of a termination date if an employment status changes from employee to independent contractor. See the Definitions Clarified heading for more information.

Refer to Section 16, Chapter 254, Laws of 1997 for specific language.

Definitions Clarified

The definition of "separation from service or employment" was added to the applicable statutes, in PERS, TRS and Law Enforcement Officers' and Firefighters' Retirement System (LEOFF), to reflect the intent of the current law and the agency's past administrative practice regarding when DRS considers a member to be separated from service.

- "Separation from service or employment" means the date a person has terminated all employment with an employer.

The appropriate statutes for both PERS and TRS now provide that a person becomes a retiree on the day the retirement allowance begins to accrue (first day of the month following the date of separation from service or employment), rather than with the receipt of the first pension payment.

SSB 5218 confirms the agency's practice of using the "right of control" test to determine whether a worker is an employee or an independent contractor. A person providing services to an employer is an employee, unless the person is free from the employer's direction and control over the performance of work. Refer to WAC 415-02-110 for additional information.

When and How Much Can a Retiree Work?

The following language was added to the applicable statutes to reflect the new rules regarding how a monthly pension will be affected if a retiree returns to work before the required one full calendar month break in service. The new rules apply to all plans in PERS and TRS.

- If a retiree returns to work before one full calendar month from his or her accrual date, the retiree's monthly retirement allowance will be reduced. The formula to compute the reduction will be 5.5 percent of the monthly benefit for every day of work up to

twenty days per month. In TRS, a day is defined as seven hours and for PERS a day is defined as eight hours. This benefit reduction will continue until the retiree is considered separated from all employment for one full calendar month.

After The One Full Calendar Month Break in Service

All retirees from PERS and TRS, except TRS Plan 1, can work in an eligible position for up to five months within a calendar year without their pension being affected. One hour of work in a month is the same as 160 hours of work in a month.

Once a retiree, except TRS Plan 1, enters the sixth month of employment in an eligible position, the retiree's pension will be suspended until January of the following year (this assumes the retiree does not choose to rejoin membership during this period of time) or the first day of the month following termination of employment, whichever is earliest.

TRS Plan 1 retirees will continue to be able to work up to 525 hours each fiscal year, July through June, without their pension being impacted. Refer to DRS Notice 96-004 for additional information regarding TRS Plan 1 retirees and the rules around working more than 525 hours.

Note: All retirees from PERS and TRS can now choose to rejoin membership on a prospective basis.

Effective Dates

The Legislature provided limited retroactivity for the provisions of Chapter 254, Laws of 1997. The provisions were made applicable to any overpayment discovered on or after June 1, 1996. Any overpayment discovered by the DRS on or after that date will be evaluated using the provisions of the bill. This will allow the Department to treat future overpayment situations consistently regardless of whether the person retired before or after the effective date of the Chapter 254, Laws of 1997.

Questions?

If you have questions regarding the information in this notice, please contact the DRS Employer Support Services at (360) 753-8696.

John Charles
Director

1997 DRS Notices

For a copy of a Notice, call (360) 586-4515.

Notice No.	Applies to/ Subject matter
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97-001	All Employers Summary of 1997 Legislation.
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97-002	All Employers New Reporting Procedures When Hiring Retirees
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